

**From:** [SMITH Scott](#)  
**To:** ['potter.michael.j@dol.gov'](mailto:'potter.michael.j@dol.gov')  
**Date:** May 10, 2018 at 12:58 PM  
**Subject:** Zenith Terminals  
**Attachment(s):** 1

Hi Michael,

Thanks for taking a look at my concerns about Zenith Energy Terminals located at 5501 NW Front Ave 97210. Here is the backstory:

In December of 2017 Arc Terminals was sold to Zenith Energy Terminals.

Around January of this year Zenith began to transfer a new product, tar sands from the Alberta Province of Canada. Normally when a terminal begins to work with a new product they let my office know in advance by providing a new Safety Data Sheet as an amendment to their Oil Spill Contingency Plan, which I oversee. However I was unaware of this new product until I found a news article online in early March. I then called the Terminal Manager, Nathan Eggers who confirmed that they were transferring a new product, but not to worry because it had all of the properties of either diesel or other crude oils which they have worked with in the past. I asked him for a SDS for the new product as soon as possible. 2-3 weeks later on 3/28/18 they sent me three SDS's for the 3 transfers which they had already completed. They are all fairly similar to each other, but nothing like the Black Waxy Crude oil which they previously worked with.

I was alarmed to see that the Tar Sands they are working with now require full face air supplied respirators or SCBA's. The tar sands also have other toxicological properties which are detailed on the SDS which are also cause for extra care to be taken when using this product. (However to simplify this email I'll just focus on the SCBA requirement.) I asked them what PPE their workers used to unload the railcars and he said it was Level D (Coveralls, Hard Hat, eye protection and steel toed boots.) I asked what respiratory protection they had for the workers and they said that there were escape SCBA's available, but the workers did not use SCBA's or supplied air respirators, nor were they trained to. I also asked if their spill contractors, or dock workers for Chevron (who transfers the product to tank vessels) were aware of the SDS and they said no, because they believed the tar sands were similar to other products they had previously transferred. It was at this point they further explained the full operation at the facility:

Rail cars enter the facility and are unloaded at their rail racks. One product is the tar sands, and the other is Naphtha. The tar sands are heated in the rail cars using steam, and then pumped into a holding tank. (The tar sands must be heated because they are about as viscous as honey at normal temps.) Then the facility adds and blends in Naphtha to make the product flow properly through facility piping. The combined product is then pumped over to the Chevron Dock where Chevron staff loads it onto ships bound for Asia.

I asked if they had a SDS for the combined product of Tar Sands + Naphtha and they said they did not, but now had each individual SDS for Naphtha and Tar Sands so I shouldn't worry. I explained that by adding the Naphtha they were changing the chemical and physical properties of the oil, so a new SDS was necessary. They replied that they would hire a consultant to look into the issue if they got the go ahead from Zenith Corporate. Since that time, they have unloaded many more rail cars and completed at least two other vessel transfers, however I am unaware of whether they have trained their own workers or the workers at Chevron about the hazards of this product. I did call their spill response contractor, Clean Rivers who was unaware of the new product, and they stated that they could not respond to a spill which requires supplied air respirators. However, they have a sub-contract with NRCES who has 35 trained level A responders.

After several attempts to reach out to Zenith I consulted with EPA spill responders who suggested that I contact OSHA to ensure that the workers are being properly protected. Below is the partial email chain between myself and Zenith which spells out the requirements which I need for them to comply with on the spills side of the regulatory process under DEQ rules in OAR 340-141.

My overall impression of this situation is that this issue is most likely this is simply complacency issue and the facility manager does not see that this product is different from previous products which they have worked with before. However once I raised the issue of their non-compliance with safety standards, their unwillingness to address these safety issues before they have completed additional transfers of the product, or to train their own staff, Chevron's staff, or their spill contractors is what has caused me the most alarm. There is also the possibility that since this company was recently bought by Zenith they are worried about upsetting their new corporate management and reluctant to take measures which could be costly or threaten their contract to transfer the tar sands oil. Either way, I would appreciate OSHA's assistance on this matter so that we can do our best to protect the health of workers, the public and the environment.

I have more information on this issue if you need further details.

The above statement is correct and true to the best of my recollection.

-Scott A Smith

DEQ Emergency Response Program.

From: SMITH Scott  
Sent: Monday, April 16, 2018 11:01 AM  
To: 'Curtis, Clayton' <Clayton.Curtis@zenithterminals.com>  
Cc: 'Theo Camlin' <TCamlin@njr.net>  
Subject: RE: Spill Plan Edits

Hi Clayton,

I haven't received any updates for the Zenith plan, or even a road map.  
When can I expect to see them?

From: Curtis, Clayton <Clayton.Curtis@zenithterminals.com  
<mailto:Clayton.Curtis@zenithterminals.com> >  
Sent: Monday, April 02, 2018 1:42 PM  
To: SMITH Scott <Scott.SMITH@state.or.us>  
Subject: RE: Spill Plan Edits

Scott, thanks for the outline you listed below, it will give us a road map to getting everything together. I am taking the opportunity to justify outside assistance for our response action and am having Theo Camlin with NJ Resources assist. You mentioned March 4th as the timeline, I assume you meant April 4th. To be honest, we can get the work started and parts will be completed this week, but for complete package I'll get with Theo to get a realist timeline ready.

FYI, we have a weekly call with Chevron every Friday and we discuss a joint drill and are working on scheduling one.

From: SMITH Scott [mailto:Scott.SMITH@state.or.us]  
Sent: Thursday, March 29, 2018 4:13 PM  
To: Curtis, Clayton <Clayton.Curtis@zenithterminals.com  
<mailto:Clayton.Curtis@zenithterminals.com> >  
Subject: Spill Plan Edits

Good afternoon Clayton,

As we discussed yesterday, the Safety Data Sheet information provided for the new types of crude oil that Zenith is transferring is going to require increased respiratory protection for spill response personnel. The situation is currently that the SDS states under section 8 that a SCBA or air supplied respirator is required, and currently Clean Rivers Cooperative, your main OSRO does not have that type of equipment or training. However CRC does have a contract with NRCES which has a reported 35 SCBA units and trained staff available on their hazmat response team. Because of these response changes, the following edits will be required of your spill contingency plan.

1. Appendix M must be updated to include all types of oil or hazardous materials which are handled by your employees or present at the facility. Currently missing are "Tank- West Hazel" "Sales Tank- Winder North Battery" and "Sales Tank- Winter Battery Main" which are the previously transferred products in 2018. Moving forward, you must also include a SDS for each new type of oil or hazardous material which is being transferred or stored at the facility if it has chemical or physical properties different from those already listed in your plan.

2. You must update your spill contingency plan to include response standards for the following areas: (or state why changes are not necessary.)

- a. Section 1.1, initial response checklist
- b. Section 1.3 Initial Site Hazard Analysis Checklist
- c. Section 1.12 Evacuation Plan
- d. Section 1.12.1 Evacuation Routes
- e. Section 1.13 Initial Response Efforts
- f. Section 13.1 & 2 (Land and Water initial Spill Response)
- g. Section 4.1 & 4.1 Initial response actions and efforts

- h. Appendix A: 1.2.2 Spill Response Training Requirements
  - i. Appendix A: 1.2.3 Facility Personnel
  - j. Appendix A: \*\*Other sections as deemed adequate\*\*
  - k. Appendix B: Include spill scenario for a product which requires SCBA responders
  - l. Appx D: Pages 8-15 (Cleanup Methods)
  - m. Appx I: Site Safety and Health Plan (Especially Section 1.4, Respirator Protection Program)
  - n. Appx M: Add new SDS's
3. Because the hazards represented by these new products may not be familiar to spill responders, you must
- a. Coordinate Training with Clean Rivers Cooperative and NRCES to make them aware of the hazards
  - b. Coordinate training on response methods with Chevron, whose dock you lease for product transfers.

Additionally, I urge you to conduct an internal review to determine whether your current PPE and site safety plan provides adequate protection for facility staff, and is approved by OSHA.

Please review these areas as soon as possible and reply as soon as possible, but not later than March 4th with revisions to your plan or a timeline to implement these changes.

Thanks for our attention to these issues. I'm sure you join me in acknowledging that our most important duty is to protect the public, first responders, and the public from any potential hazards.

-Scott